

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs April 13, 2007

IN RE: MATTER OF ABDULLAH RAHIM

Appeal from the Chancery Court for Davidson County
No. 1243 Claudia Bonnyman, Chancellor

No. M2006-02216-COA-R3-CV - Filed on May 3, 2007

A prisoner appeals from the denial of his petition for a name change. Although he sought to change his name back to his original name, an intervening statutory enactment precludes name changes by persons convicted of specified crimes. Because the prisoner was convicted of one of the enumerated crimes, we affirm the trial court's denial of the petition.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court
Affirmed

PATRICIA J. COTTRELL, J., delivered the opinion of the court, in which WILLIAM C. KOCH, JR., P.J., M.S., and FRANK G. CLEMENT, JR., J., joined.

Abdullah Rahim, Nashville, Tennessee, Pro Se.

OPINION

In April of 1990 Rodney Neil Buford was convicted of first degree murder and robbery and sentenced to life plus twenty years in the penitentiary. While in prison he converted to the Muslim faith. Having been told it was mandatory that he change his name in order to participate in his preferred religion, Mr. Buford sought to have his name legally changed. On December 4, 1990, the Chancery Court for Davidson County granted his petition for change of name to Abdullah Rahim.

Having since learned that a name change is not a prerequisite to becoming a Muslim, and having learned that other motives may have prompted the incorrect information, Mr. Rahim decided he wanted to change his name back to Rodney Neil Buford. Accordingly, in May of 2006 he filed a petition for name change in the Chancery Court for Davidson County. The trial court denied the petition.

The trial court based its decision on Tenn. Code Ann. § 29-8-101(b)(1)(A), which was enacted in 1995. That statute provides:

(b)(1) Notwithstanding any other provision of law to the contrary, persons who have been convicted of the following offenses shall not have the right to legally change their names:

(A) First or second degree murder.

On appeal Mr. Rahim does not dispute that he was convicted of one of the disqualifying offenses. Instead, he argues that the purpose of Tenn. Code Ann. § 29-8-101(b) was to prevent certain convicted persons¹ of changing their names after their convictions and for fraudulent purposes. Since he seeks to have restored the name under which he was convicted, he argues, the purpose of the statute would be furthered by allowing the name change, not by denying it.

The question of whether the statute precludes the name change Mr. Rahim seeks is, in the first instance, a matter of statutory construction, with well recognized principles guiding our analysis. The primary rule of statutory construction is “to ascertain and give effect to the intention and purpose of the legislature.” *LensCrafters, Inc. v. Sundquist*, 33 S.W.3d 772, 777 (Tenn. 2000). Courts must do so without unduly restricting or expanding a statute beyond its intended scope. *In re C.K.G.*, 173 S.W.3d 714, 721-22 (Tenn. 2005). To determine legislative intent, one must look to the natural and ordinary meaning of the language used in the statute itself. We must examine any provision within the context of the entire statute and in light of its over-arching purpose and the goals it serves. *State v. Flemming*, 19 S.W.3d 195, 197 (Tenn.2000); *Cohen v. Cohen*, 937 S.W.2d 823, 828 (Tenn. 1996); *T.R. Mills Contractors, Inc. v. WRH Enterprises, LLC*, 93 S.W.3d 861, 867 (Tenn. Ct. App. 2002). The statute should be read “without any forced or subtle construction which would extend or limit its meaning.” *National Gas Distributors, Inc. v. State*, 804 S.W.2d 66, 67 (Tenn.1991).

Courts are instructed to “give effect to every word, phrase, clause and sentence of the act in order to carry out the legislative intent.” *Tidwell v. Collins*, 522 S.W.2d 674, 676-77 (Tenn.1975); *In re Estate of Dobbins*, 987 S.W.2d 30, 34 (Tenn. Ct. App. 1998). Courts must presume that the General Assembly selected these words deliberately, *Tenn. Manufactured Housing Ass'n. v. Metropolitan Gov't.*, 798 S.W.2d 254, 257 (Tenn. App.1990), and that the use of these words conveys some intent and carries meaning and purpose. *State v. Levandowski*, 955 S.W.2d 603, 606 (Tenn. 1997); *Tennessee Growers, Inc. v. King*, 682 S.W.2d 203, 205 (Tenn.1984).

The plain language of the statute precludes the name change Mr. Rahim seeks. The language is not ambiguous, and we must presume that the legislature expressed its intent deliberately. Consequently, we cannot interpret the statute contrary to its plain language in order to further some legislative purpose of our own divining.

¹ Subsection (b)(1)(B) prohibits name changes for persons convicted of offenses that require registration on the sexual offenders registry.

Thus, while Mr. Rahim's argument regarding the application of the statute to his particular situation is appealing, we cannot disregard the language used by the legislature. Accordingly, we conclude that the statute applies to preclude the name change.

Mr. Rahim also argues that the 1995 amendment cannot be applied to him because it was not in effect when he was convicted, essentially an *ex post facto* argument. The *ex post facto* prohibition found in both the Tennessee Constitution and the United States Constitution is "aimed at laws that 'retroactively alter the definition of crimes or increase the punishment for criminal acts.'" *California Dep't of Corr. v. Morales*, 514 U.S. 499, 504, 115 S. Ct. 1597, 1601 (1995). An *ex post facto* law "changes the punishment, and inflicts a greater punishment than the law annexed to the crime when committed." *Weaver v. Graham*, 450 U.S. 24, 32-33, 101 S. Ct. 960, 966 (1981). The critical question in an *ex post facto* claim is "whether the law changes the punishment to the defendant's disadvantage, or inflicts a greater punishment than the law allowed when the offense occurred." *State v. Pearson*, 858 S.W.2d 879, 883 (Tenn. 1993).

Two factors must be present to establish a violation of the *ex post facto* prohibition: (1) the law must apply retrospectively to events occurring before its enactment; and (2) it must disadvantage the offender affected by it. *State v. Ricci*, 914 S.W.2d 475, 480 (Tenn. 1996); *Pearson*, 858 S.W.2d at 882, quoting *Miller v. Florida*, 482 U.S. 423, 430, 107 S. Ct. 2446, 2451 (1987).

The deprivation of the right to change one's name does not alter the definition of the crime that Mr. Rahim committed or impose a greater punishment on him. Accordingly, we find that the application of Tenn. Code Ann. § 29-8-101(b)(1)(A) to Mr. Rahim does not violate, or even implicate, the *ex post facto* constitutional protections.

We appreciate Mr. Rahim's thoughtful arguments. Nonetheless, there is no legal basis for exempting him from the statute. We affirm the judgment of the trial court. Costs on appeal are taxed to the appellant, Abdullah Rahim.

PATRICIA J. COTTRELL, JUDGE